IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.585 OF 2005

IN

CHAMBER SUMMMONS NO.920 OF 2003

IN

SUIT NO.611 OF 2001

Carona Limited ..Appellant.

V/s.

Burjor S. Sidhwa ..Respondent.

Mr.Haresh Mansukhani for appellant.

Mr.Girish Desai i/b.Rajesh Shah & Co. for respondent.

Mr.R.T.Bhagat,representative of Court Receiver present.

CORAM : V.C. DAGA AND
J.P.DEVADHAR, JJ.

DATED : 13TH SEPTEMBER, 2005.

P.C. :-

1. Heard the learned counsel for the rival parties. Perused the appeal memo and order impugned.

It is needless to mention that in dealing with the matter raised at the appellate stage, the appellate Court is normally expected to be slow in interfering with the exercise of discretion solely on the ground that if it had considered the matter at the trial stage, it may have come to a contrary conclusion. If the discretion has been exercised by the trial Court reasonably and in a judicial manner the fact that the appellate Court would have taken a different view may not justify interference with the trial Court's discretion. If it appears to the appellate Court that in exercising its discretion, the trial Court has acted unreasonably or capriciously or has ignored relevant facts, then it is open for the appellate Court to interfere with the trial Court's order. Having examined the impugned order challenged in this order, we are of the considered view that the view taken by the learned Single Judge is a reasonable and possible view. The discretion has been properly exercised. In that view of the matter, no interference is called for.

2. So far as the arrears of amount of royalty is concerned, the learned counsel appearing for the appellant submits that the entire amount of royalty has already been paid on monthly basis. He undertakes to supply the statement of deposits made from time to time

to the counsel appearing for the respondents within one week from today. The statement made is taken on record. Needless to mention that we do not propose to enter into the controversy as to whether or not the amount of arrears of royalty has been paid. In the event the respondent finds that the amount of royalty is due and recoverable from the appellant, then, it would be open for the respondent to take appropriate steps in the trial Court to recover the same thereof.

3. With the above observations, the appeal stands dismissed in limini with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)